

ORDER NO. 3393

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Tony Hammond

Competitive Product Prices
Priority Mail & First-Class Package Service Contract 5
(MC2015-57)
Negotiated Service Agreement

Docket No. CP2015-85

ORDER GRANTING IN PART MOTION FOR TEMPORARY RELIEF

(Issued June 28, 2016)

The negotiated service agreement approved in this proceeding (Existing Agreement) is set to expire July 5, 2016.¹ On June 24, 2016, the Postal Service filed a motion for temporary relief seeking an extension to allow the Existing Agreement to remain in effect until a successor agreement receives Commission approval and takes effect. Motion at 1.² The Postal Service also filed the successor agreement on June 24, 2016.³

¹ See Docket Nos. MC2015-57 and CP2015-85, Order No. 2560, Order Adding Priority Mail & First-Class Package Service Contract 5 to the Competitive Product List, July 2, 2015, at 9.

² Motion of the United States Postal Service for Temporary Relief, June 24, 2016 (Motion). The successor agreement is scheduled to take effect two business days following the day on which the Commission issues all necessary regulatory approval. See Docket Nos. MC2016-158 and CP2016-229, Request of the United States Postal Service to add Priority Mail & First-Class Package Service Contract 20 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, June 24, 2016, Attachment B at 5 (Request).

³ See Request at 1.

In support of its Motion, the Postal Service asserts that the parties were not able to complete and file the successor contract more than 15 days prior to the Existing Agreement's termination date, despite their efforts.⁴ It observes that because the successor agreement has been filed, the proposed extension would last for a finite and relatively short period of time, and allow for continuity of the customer's business. Motion at 2.

The contemporaneous filing of the successor agreement supports the Postal Service's representations concerning good faith efforts to comply with the timetable established in Order No. 85. With respect to the terms of the extension, the Motion adequately addresses a scenario in which the Commission is able to issue prompt approval of the successor agreement. However, as unexpected delay — or denial — might ensue, the Commission finds it preferable to modify the terms of the requested extension by allowing the Existing Agreement to continue until the successor agreement is approved and takes effect, or until August 5, 2016, whichever occurs first. Under either eventuality, this brief extension (equivalent to the one-month extensions the Commission has approved in several other proceedings involving negotiated service agreements⁵) will not impair the ability of the Existing Agreement to comply with 39 U.S.C. § 3633, will avoid disruption in contract administration, and will not prejudice any person. Consequently, the Existing Agreement is modified to continue on the revised terms established in this Order.

The Commission directs the Postal Service to promptly file notice of the effective date of the successor agreement in this docket, in addition to any filing requirement related to such notice that may be established in Docket Nos. MC2016-158 and

⁴ Motion at 1. With respect to the filing requirement, see 39 C.F.R. 3015.5 and Docket Nos. CP2008-8, CP2008-9, and CP2008-10, Order Concerning Global Plus Negotiated Service Agreements, June 27, 2008, at 10 (Order No. 85).

⁵ See, e.g., Docket No. CP2012-38, Order No. 2740, Order Granting Third Motion for Temporary Relief, October 1, 2015, at 2; Docket No. CP2009-42, Order No. 1563, Order Granting Motion for Temporary Relief, December 3, 2012, at 2; Docket No. CP2009-44, Order No. 1564, Order Granting Motion for Temporary Relief, December 3, 2012, at 2.

CP2016-229. Similarly, the Postal Service shall also promptly file notice with the Commission if the Existing Agreement is terminated pursuant to contractual terms prior to the revised terms of expiration established in this Order.

It is ordered:

1. The Motion of the United States Postal Service for Temporary Relief, filed June 24, 2016, is granted.
2. The Commission approves an extension of the Existing Agreement from July 5, 2016 until the effective date of the successor agreement or August 5, 2016, whichever occurs earlier.
3. The Mail Classification Schedule will continue to list the Existing Agreement according to the terms set forth in this Order.
4. The Postal Service shall promptly file notice of the effective date of the successor agreement in this docket.
5. The Postal Service shall promptly file notice of the termination of the Existing Agreement if such termination occurs prior to the date of either of the alternatives described in the body of this Order.

By the Commission.

Stacy L. Ruble
Secretary